

ORDINANCE NO. 07-33

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE VI. SUPPLEMENTAL DISTRICT REGULATIONS, DIVISION 10. PARKING, OF THE CODE OF ORDINANCES, AND IN PARTICULAR, REVISING HIALEAH, CODE § 98- 2200 ENTITLED "PARKING COMMERCIAL VEHICLES IN RESIDENTIAL ZONES" TO PROVIDE DEFINITIONS; RENAME TITLE TO "PARKING COMMERCIAL VEHICLES, RECREATIONAL VEHICLES, BOATS OR VESSELS ON PROPERTY ZONED RESIDENTIAL"; TO DECLARE CERTAIN ACTS UNLAWFUL; AND TO ALLOW UNDER LIMITED CIRCUMSTANCES PARKING OF DESIGNATED COMMERCIAL VEHICLES AND RECREATIONAL VEHICLES, BOATS OR VESSELS AND/OR TRAILERS ON PROPERTY ZONED RESIDENTIAL; PROVIDING FOR RESIDENTIAL PARKING PERMIT TO ALLOW PARKING FOR BOATS AND VESSELS THAT ARE 33 FEET IN LENGTH OR LESS AND FOR PERSONAL BOATS AND VESSELS THAT ARE 24 FEET OR LESS FOR PARKING UPON CERTAIN CONDITIONS; AND MISCELLANEOUS PROVISIONS; AND AMENDING DIVISION 3. BUILDINGS AND STRUCTURES BY REVISING HIALEAH CODE § 98-1679 ENTITLED "TRAILERS" TO ELIMINATE BOAT TRAILERS FROM THE REGULATIONS OF THAT CODE SECTION FOR PURPOSES OF CONSISTENCY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of February 28, 2007 recommended approval of this ordinance; and

WHEREAS, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

WHEREAS, the specific purpose and intent of this ordinance is to provide practical regulations for more effective code enforcement and provide a proper balance between private property rights and negative impacts to the residential neighborhood.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 98 entitled "Zoning", Article VI. Supplemental District Regulations, Division 10. Parking, of the Code of Ordinances of the City of Hialeah, Florida, particularly Hialeah Code § 98-2200 entitled "Parking commercial vehicles in residential zones" is hereby amended to read as follows:

Chapter 98

ZONING

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ARTICLE VI. SUPPLEMENTAL DISTRICT REGULATIONS

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DIVISION 10. PARKING.

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Sec. 98-2200. Parking commercial vehicles, recreational vehicles, boats or vessels in on property zoned residential zones.

~~(a) A commercial vehicle is defined as a motor vehicle and/or trailer being used primarily for commercial purposes or advertising the name of a commercial enterprise. Recreational vehicles are not considered commercial vehicles for purposes of this section.~~

(a) Definitions.

Boat or vessel means a watercraft, airboat, jet-ski, motorboat or sailboat, capable of being used as a means of transport on water.

Boat trailer means a vehicle designed or used to haul a boat or vessel.

Commercial vehicle means a motor vehicle and/or trailer used primarily for commercial purposes or designed or built for a commercial enterprise or business or use; or any vehicle marked with a sign, letters, identification numbers advertising or associating it in any way with a commercial enterprise other than those that identify the vehicle maker or dealer. A commercial vehicle may also include a vehicle used for transporting people for compensation. Recreational vehicles are not considered commercial vehicles for purposes of this section.

Personal boat or vessel means a boat or vessel that is less than 24 feet in length with an outboard or inboard power source or is powered by the wind.

Recreational vehicle means a self-propelled motor vehicle, primarily designed and used as temporary living quarters for recreational camping or for travel.

(b) Unlawful acts.

(1) It shall be unlawful to park a commercial vehicle including, but not limited earth-moving, and road and building construction equipment, tow trucks, wreckers, rigs, tractor and/or trailers, dump trucks, buses, buses that are converted to other uses, gas trucks and septic tank trucks of one-ton capacity or more within a residential zoning district or area, including the adjacent rights-of-way or swale area, unless engaged in loading or unloading material or actively performing repairs or services on the property where the vehicle is parked.

(2) It shall be unlawful to park a commercial vehicle or trailer that exceeds a 2,000-pound load or capacity, within a residential zoning district, including the adjacent rights-of-way or swale area, unless engaged in loading or unloading material or actively performing repairs or services on the

property where the vehicle or trailer is parked. Parking overnight is prohibited.

(e) (3) It shall be unlawful to have more than two commercial vehicles of less than one-ton 2,000-pound load or capacity or less parked for more than one hour within a residential zoning district or area, including adjacent rights-of-way or swale area, unless engaged in loading or unloading material or actively performing repairs or services on the property where the vehicle is parked. Parking overnight is prohibited.

(4) A property owner, tenant or person in possession or control of the property shall provide access to the property for the city inspector, upon request, to conduct an inspection to determine the location of a parked commercial vehicle. Failure to provide access for an on-site inspection, upon reasonable notice, is a violation of this section.

(c) *Parking of permitted commercial vehicles on property zoned residential.*

(1) A property owner or tenant may park the following types of commercial vehicles within the rear or side yard, no closer than 3 feet from the rear or side yard property line, or on a paved front driveway of property zoned residential when the use of the commercial vehicle complies with the permitted uses allowed in the residential zoning district, notwithstanding maximum load or capacity:

a. An open bed pick-up truck and a pick up truck with an enclosed trunk cap. All such vehicles shall either possess one front load bearing single wheel axle and one rear load bearing single or a double wheel axle. The name and logo of the business or enterprise is the only advertising permitted on the vehicle.

b. No more than one vehicle of the following types of commercial vehicles may be parked within residential zoned property: a food-vending truck/lunch truck, ice cream truck, a private school van that holds 12 passengers or fewer, commercial van, small step van, taxicab and a limousine. If one type of commercial

vehicle is parked within a residential zoned property, no other vehicles that are described in this paragraph will be allowed on the same property. Inventory cannot be openly displayed and must be securely shuttered or enclosed in the trunk cap.

(2) At no time shall a commercial vehicle or trailer, if allowed according to subsection (c)(1)a., be used for commercial or business activity while parked on property zoned residential.

(d) *Parking of recreational vehicles on property zoned residential.*

(1) A recreational vehicle that is a motor home or travel trailer, private motor coach or van conversion not exceeding 33 feet in length, and a pick-up truck of one ton capacity or less with an attached camper bed not exceeding 9½ feet in length, will be allowed to park in the rear yard or side yard of property zoned residential; provided that such recreational vehicle is parked no closer than three feet from the side or rear property lines.

(2) A recreational vehicle not exceeding 24 feet in length and pick-up truck of one ton capacity or less with an attached camper bed not exceeding 9½ feet in length, will also be allowed to park in the paved front driveway and the front or rear of the recreational vehicle shall face the right-of-way.

(3) At all times, a recreational vehicle shall have current license plates and registration.

(4) A recreational vehicle while parked on property zoned residential shall not be occupied or used for living, sleeping or storage.

(5) A property owner, tenant or person in possession or control of the property shall provide access to the property, upon request, for the city inspector to conduct an inspection to determine the location of a parked recreational vehicle. Failure to provide access for an on-site inspection, upon reasonable notice, is a violation of this section.

(e) *Parking of boats or vessels on property zoned residential.*

(1) A boat or vessel that is 33 feet in length or less will be allowed to park in the rear yard or side yard within a residential zoned property, provided that the boat or vessel is parked no closer than three feet from the side or rear property lines. The boat or vessel shall be stored on a trailer at all times and to the extent practicable, screened from the view from the street and adjacent properties.

(2) A personal boat or vessel that is less than 24 feet in length will be allowed to park in the front yard of a single-family residence or townhouse if the property does not have a side yard or rear yard, provided that the personal boat or vessel is parked no closer than three feet from the side property line and that the front or rear of the boat or vessel shall face the right-of-way. The personal boat or vessel shall be stored on a trailer at all times.

(3) A boat or vessel and/or trailer shall not be parked or stored on public property, including, but not limited to, the right-of-way, swale area or sidewalk. A boat or vessel and/or trailer, if parked or stored on private property, shall not encroach or block the right-of-way or sidewalk.

(4) At all times, a boat trailer shall have current license plates and registration.

(5) A boat or vessel while parked on property zoned residential shall not be occupied or used for living, sleeping or storage.

Sec. 98-2201. Prohibited parking in Hialeah Heights.

It is unlawful to park a commercial vehicle, recreational vehicle, boat or vessel or trailer in a property zoned residential or in a property having a residential land use classification in Hialeah Heights, unless such a vehicle, vessel or trailer is parked within a completely enclosed garage or unless engaged in loading or unloading material or actively performing repairs or services on the property where the vehicle or trailer is parked.

[Renumber succeeding sections as necessary.]

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Section 2: Chapter 98 entitled "Zoning", Article VI. Supplemental District Regulations, Division 3. Buildings and Structures, of the Code of Ordinances of the City of Hialeah, Florida, particularly Hialeah Code § 98-1679 entitled "Trailers" is hereby amended to read as follows:

Chapter 98

ZONING

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ARTICLE VI. SUPPLEMENTAL DISTRICT REGULATIONS

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DIVISION 3. BUILDINGS AND STRUCTURES

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Sec. 98-1679. Trailers.

No trailer shall be parked in any location other than a trailer park, trailer sales and repair lot, or in a completely enclosed garage, with the exception of parking and storage of camping and recreational equipment on private residential property. Camping and recreational equipment includes ~~boat trailers~~, small utility trailers, tent trailers and travel trailers, which trailers are not to exceed 26 feet in length and they are to be used from time to time and are to have current license plats and are to only be stored on the property and not used except for recreational purposes or uses only. At no time shall such parked or stored camping and recreational equipment be occupied or used for living, sleeping or housekeeping purposes. Small utility trailers, tent trailers and travel trailers shall be parked within the

rear and side yard, no closer than three feet from the rear or side yard property line.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered, as appropriate, to conform to the uniform numbering system of the Code.

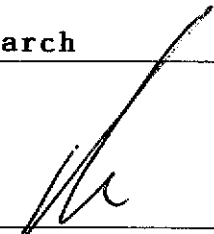
Section 6: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 7: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 27th day of March, 2007.



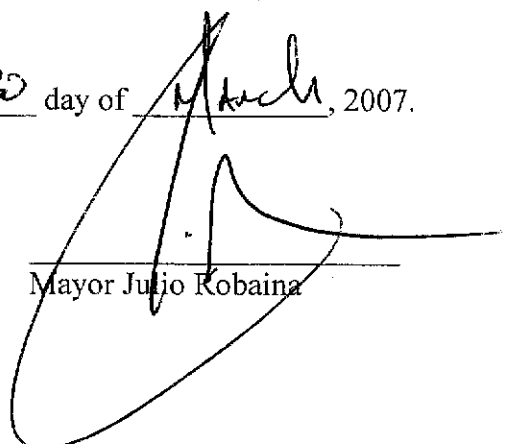
Esteban Bovo
Council President

Attest:

Approved on this 30 day of March, 2007.



Rafael E. Granado, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Gonzalez, Hernandez, Miel and Yedra voting "Yes".